

# DERM Wetlands Advisory Task Force

## MINUTES

OCTOBER 19, 2011

1:00PM

701 NW 1 COURT  
2<sup>ND</sup> FLOOR TRAINING ROOM

MEETING CALLED TO ORDER	1:10pm		
MEMBER ATTENDEES	<b>Present:</b> Patricia Baloyra Manuel Echezarreta Jose K Fuentes Jose M. Gonzalez Alice Pena Stephen A Sauls	<b>Absent:</b> James F. Murley	<b>Non Voting:</b> Jennifer Smith, FDEP SE District Ray Scott, FDAC – Office of Agricultural Water Policy Ron Peekstok, SFWMD

## Agenda topics

### WELCOME AND ANNOUNCEMENTS

LEE HEFTY, ASSISTANT DIRECTOR, PERA

DISCUSSION	<p>Mr. Hefty opened the meeting with announcements which included updating the members on the County's reorganization and the combined department functions of the Zoning, Building and Neighborhood Compliance and DERM, which will be now known as the Department of the Permitting, Environment and Regulatory Affairs with Mr. Charles Danger, PE as the Interim Director.</p> <p>Mr. Hefty reviewed the information provided to the members in a packet which contained a combination of items such as information requests from the September 29, 2011 meeting, information from the present agenda and a copy of the memorandum for request of extension of time to the Board of County Commissioners as directed by the members at the previous meeting.</p> <p>Mr. Hefty advised the members that staff is trying to coordinate with the US Army Corps of Engineers on their request for a presentation on the operations of pump 357 and the local impacts to the groundwater hydrology.</p>
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### AGENDA REVIEW

MANUEL ECHEZARRETA, VICE CHAIR - WATF

DISCUSSION	Vice Chair Manuel Echezarreta opened discussion for changes or additions to the current agenda provided. Agenda was accepted as provided.
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### APPROVAL OF MINUTES FROM SEPTEMBER 29, 2011 MEETING

MANUEL ECHEZARRETA, VICE CHAIR - WATF

DISCUSSION	The Vice Chair advised members that draft minutes were previously provided and are now open for corrections/approval. Hearing no corrections, motion was made to approve by Jose K. Fuentes, and was seconded by Patricia Baloyra. The motion passed by unanimous vote.
CONCLUSIONS	Minutes passed

### PRESENTATION: MDC WETLANDS PERMITTING & ENFORCEMENT

MATTHEW DAVIS, DIVISION CHIEF  
PERMITTING, ENVIRONMENT AND REGULATORY AFFAIRS

DISCUSSION	<p>The Vice Chair recognized Mr. Matthew Davis to present.</p> <p>Mr. Davis stated that at the previous meeting, staff gave a presentation on the highlights of code authority and state statutes. Today is a presentation on a broad overview of the permitting specific to Miami-Dade County, along with some historical and graphical information.</p> <p>Mr. Davis began by explaining further the "area of concern" which is a broad area made up of wetland basins and hydric soils mapping, it is a screening tool that staff uses to identify if an area potentially has wetlands. It probably captures about 99% of the wetlands in the county. However there are many areas that are not wetlands. It is a very conservative tool we use that shows where the historic wetlands were.</p> <p>Miami Dade County may be the most urbanized county in Florida with over 2.5 million people living here. The county is completely surrounded by high quality natural areas, such as Everglades Natural Park, the Water Conservation Areas, Biscayne National Park, Biscayne Bay Aquatic Preserve, etc. Located in almost the middle are the wellfields, the aquifer is literally a couple of feet down in most areas. These wellfields are known as wellfield protection areas. With the sensitivity of the aquifer and the high quality natural areas, it represents the challenges that we face and the importance of the wetlands.</p> <p>Discussion with members:</p> <p>Jose Gonzalez inquired if the maps that were being shown were approved by County Commission or are they a tool that say these can be wetland areas?</p>
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Mr. Davis stated that the only legislatively approved maps are the wellfield maps and that the maps being presented are not official maps but are where wetlands could be. These maps are not official maps but are a tool provided as a background for the members to see what part of the county may have wetlands.

Mr. Hefty reminded the members that the department produced brochures that were provided to realtors and real estate attorneys several years ago identifying that if you are in an area that might have wetlands, they should check with the county to see if they need a permit for developing the piece of property. The map presented is a guideline, not a jurisdictional map. Wetlands are determined property by property. The information was made available to the public, not as a determination of wetlands, but as a tool to use when considering development of a piece of property.

Members were shown pictures of areas of wetlands in different stages such as wet or dry as well as areas with agricultural function and areas that were mitigated and returned to their natural state.

Members were provided with the numbers of permits issued in the past 10 years and the acres impacted as well as acres mitigated.

Task force discussion on the matter  
Stephen Sauls noted that there appears to be a declining trend in the amount of permits over the years and inquired as to why.

Mr. Davis responded that it is due in part to the economy and also a good number of permits reflected are rockmining permits. The lake belt area in Miami Dade County is one of the largest rockmining areas in the state located mostly in wetlands. If permits are issued in that area, they could be 600 acres, so the number could be heavily impacted by one or two permits.

Task force discussion on the matter

Members were given an explanation of mitigation which is a result of replacing function. There is a function associated with every wetland, for example high quality wetland like in ENP is high functioning and requires more mitigation as opposed to a wetland impacted over time and has low residual value, low function for wildlife at this time. That impacts the amount of mitigation needed for each acre. Mitigation in this county is often done in terms of mitigation banks. These banks have a credit system based on the wetland functions. Each credit that they sell represents a different amount of acres. For example, one credit at the hole-in-the-donut represents 1.5 acres restored. One credit at the Florida Power and Light's mitigation bank represents up to 10 acres that get enhanced for that one credit. If an area is preserved for the long term, and there isn't a lot of restoration work done you will need a lot more acreage to offset impacts vs. something that has been heavily damaged and has been restored.

Task force discussion on the matter  
S. Saul inquired if it was captured in statute as to why it requires more acreage to be mitigated then acreage impacted?

Mr. Davis advised that the Uniform Mitigation Assessment Method (UMAM) spells out how the functional assessment should be done, impact acreage to mitigated acreage. It gives you a quantitative method to established acres of mitigation needed to acres impacted based on functionality.

Members were shown a representation of the extent and area of the county of where permitting is happening in wetlands.

Task force discussion on the matter  
S. Saul, to what extent is a property in the eastern area affected by the wetlands requirements?

M. Davis, if the wetland is considered jurisdictional under the state statute it would fall within the wetland requirements.

Task force discussion on the matter

Members were shown arials of the Bird Drive Basin and development between 1999-2004. The Basin is known as a cut and fill basin that does not have a lot of flood protection available through the regional canal system.

Task force discussion on the matter

Mr. Davis discussed Chapter 24 of the Code which the County works under. Through the permitting process, we go through avoidance, minimization and mitigation. If there's work in wetlands, we look to see if it is possible avoid the impact; minimize the impact; for temporary work, there is the potential to repair, rehabilitate or restore the affected environment; reduce the impact over time by preservation. If after reviewing all, and there still is going to be an impact in wetlands for agricultural development or another use, then you look to compensate for the unavoidable impacts and that's where the mitigation comes in.

Simplified mitigation options can be someone doing mitigation on-site/off-site which requires available land and institutional control in terms of a covenant or conservation easement and long term maintenance. Another option is the ability to purchase mitigation banking credits. This has a higher upfront cost, but it allows someone to perform the mitigation by paying into this bank. The way the bank works is, they do their mitigation ahead of time, the agencies review it, approve it and release credits that they can sell. If someone pays into the bank and get credits, they can move on without long term maintenance issues that they are responsible for.

Members were shown examples of areas of mitigation such as the Hole-in-the-Donut and the Everglades Mitigation Bank.

Task force discussion on the matter.

	<p>J. Gonzalez made reference to Chapter 33B Article I and the areas of critical concern and the legal description and inquired if it relates to the map that was shown in the presentation.</p> <p>Mr. Hefty responded that Chapter 33B is a more specific area and is codified. The map shown in the presentation was much broader.</p> <p>Mr. Davis stated that not all of the area is jurisdiction wetlands. It is determined site by site. Wetlands are defined by state law and must be evaluated on a case by case basis.</p>
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**PRESENTATION: FDACS' ROLE IN WETLANDS PERMITTING REVIEW**

**RAY SCOTT, FDACS**

<b>DISCUSSION</b>	<p>Mr. Ray Scott, Florida Department of Agriculture and Consumer Services (FDACS) gave a presentation to the members on the FDACS' role in wetlands permitting review. He provided the members with handouts of House Bill 421: Agricultural Exemptions – Information Bulletin and Chapter 2011-165 Committee Substitute for Committee Substitute for House Bill No. 421, which is an attempt by the legislature to clarify language relating to an agricultural exemption under Chapter 373 F.S.</p> <p>Mr. Scott discussed the background of HB 421, which was promulgated in response to a court case involving work in wetlands without a permit and enforcement actions taken by the regulating agency.</p> <p>Mr. Scott explained that section 1 of the bill added language to the law meant to clarify the intent of the exemption, while section 2 added language to give FDACS the authority to determine whether or not an activity qualifies for the exemption.</p> <p>Mr. Scott advised that prior to this legislation, FDACS acted in an advisory manner. However, the effect of this legislation has changed their role in that their decision is now binding on all parties. A landowner or the Water Management District can request that they provide a binding determination as to whether a particular activity is eligible for the exemption. Memorandums of Agreements have been developed with each of the Water Management Districts that are largely procedural in nature.</p> <p>Mr. Scott explained that the process is based on statutory direction, and that FDACS is using a three-pronged test. The first prong is to determine if the operation is a bona fide agricultural operation. A thresholds condition is that it has to be classified as agricultural land, through an onsite determination. The second prong is a determination of what is normal and customary for the type of agricultural practice and the location it is being undertaken. The third prong is the sole and predominant purpose. As we go forward, what you will see is a fairly strong emphasis on prong 2 on what is normal and customary for the practice of agriculture.</p> <p>Mr. Scott indicated that, since the new rules were put into effect, there have been 7 or 8 requests already, 4 of them have been completed. He gave examples of FDACS work in applying the three-pronged test and making such binding determinations.</p> <p>The Task Force held discussion on the matter.</p> <p>Ms. Baloyra inquired about any differences in how local governments apply the exemption? Mr. Scott responded that in recent times there has been more of an effort to have consistent regulatory activity throughout the state. UMAM is an example on how we've tried to make things more consistent. Historically, the exemption has not been applied uniformly across the 5 Districts. Some Districts have instituted particular programs to deal with the issue of agricultural operations and permitting needs.</p> <p>Ms. Baloyra inquired as to the interaction with local permitting authorities with respect to the exemption.</p> <p>Mr. Scott advised that he has not had personal interaction, but has received constituent communication. He stated that they have been told that Miami Dade believes that they do not have to apply this exemption, because it is a matter of home rule and that there was not a specific pre-emption in the statute. Furthermore, Hillsborough also believes that they do not have to apply this exemption.</p> <p>Mr. Scott stated that they would like to see a consistent regulatory environment for agriculture in the state of Florida.</p> <p>Mr. Gonzalez requested clarification as to the effect of this law basically extracting the District and giving FDACS authority over bona fide agricultural activities permitted in wetlands.</p> <p>Mr. Scott clarified that if the District says you need a permit and you do not believe you do, that would be the point you come to FDACS for a binding determination.</p> <p>Mr. Fuentes inquired if there was a way to include language in Chapter 24 similar to the bill 421?</p> <p>Mr. Hefty stated that if the task force chooses to recommend to the Board of County Commission similar language like that of bill 421 and if the Commission agrees to the language, they can adopt it.</p> <p>Ms. Pena restated her concern from the previous meeting in the determination criteria of wetlands. Specifically, where is the proof that determines those lands as wetlands. Ms. Pena cited the 8.5 SMA as an example for areas that where previously farming and now has been determined as wetlands over the years when they once were not.</p> <p>P. Baylora requested a presentation of what would be the cleanest way to get an exemption like Mr. Scott discussed on the books of Miami Dade County.</p>
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Mr. Davis responded that the county gets directions from the CDMP on how the protections get codified. Under the CDMP for the county, it has various references to no loss of high quality wetlands, protection for farmlands and all types of other things. An outright exemption for farming could potentially conflict with that in terms of an area with the quality of Everglades National Park being completely impacted for a farming operation with no replacement of the function, versus areas that may have been farmed at one time and now has exotic vegetation and are jurisdictional, but have lower quality.

Mr. Hefty stated that if the goal is to protect, preserve and promote agriculture, if you are not careful with what is recommended you may have a more adverse impact on agriculture.

Mr. Fuentes indicated that the Task Force should consider water supply, which is a critical issue for Miami Dade County when reviewing wetland protections. He inquired if there was a way to continue issuing permits to protect the water supply but in a way that had lower mitigation costs for agriculture.

Task Force held discussion on the matter.

## **PRESENTATION: STATE WETLANDS PERMITTING AND ENFORCEMENT**

**Jennifer Smith, FDEP/Ron Peekstok, SFWMD**

Jennifer Smith, Florida Department of Environmental Protection and Ronald Peekstok of the South Florida Water Management District gave a combined presentation on the State of Florida Wetland Delineation and Permitting since they apply the same rules.

Based on the last meeting, the presentation is more focused on wetlands delineation rule with some permitting. Ms. Smith discussed technical delineation procedures, proper selection of vegetative stratum, hydrologic indicators and various tests outlined in the State rule for delineating wetlands.

Wetland definition is found in Chapter 62-340 as well as subsection 373.019(17) FS, wetlands means *those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils.*

According to 62-340.300(1), the state uses a direct application of the wetland definition as stated in 62-340.200(19). The rules intent is to provide a unified statewide methodology for the delineation of the landward extent of wetlands and surface waters to satisfy the mandate of Section 373.421, F.S. The landward extent of wetlands means *the total extent of area under the wetland regulatory jurisdictions of the state* which shall be determined by the *dominance of plant species, soils and other hydrologic evidence indicative of regular and periodic inundation or saturation.*

There are several tools used in delineation, there are: Vegetative index – this is a list of most plant species which can be found in Florida wetlands; hydric soil indicators; hydrologic indicators; reasonable scientific judgment – takes into account all available information and factors pertinent to the surficial hydrology of the area. Some important factors to consider are moisture conditions, vegetation present, hydrologic alterations, landscape position, local knowledge and climatic conditions.

Ms. Smith explained the process of selection of appropriate vegetative stratum. Dominance of plant species as described in paragraphs 62-340.300(2)(a) and 62-340.300(2)(b) F.A.C., shall be determined in a plant stratum (canopy, sub canopy or ground cover). There are 5 tests used known as the A, B, C and D test that require a minimum of 10% aerial coverage for canopy or sub canopy to be considered for the tests.

Ms. Smith explained that the Altered Sites Test found in Ch. 62-340.300(3)(a) states that *if vegetation or soils of an upland or wetland areas have been altered by natural or man-induced factors such that the boundary between wetlands and uplands cannot be delineated reliably by use of the methodology in subsection 62-340.300(2) F.A.C..* If this is the case, then the most reliable available information shall be used with reasonable scientific judgment to determine where the methodology in subsection 62-340.300(2) F.A.C., would have delineated the boundary between wetlands and uplands.

Task Force held discussion on the matter.

Ms. Smith gave a brief overview of the Environmental Resource Permitting Program which addresses dredging, filling and construction in wetlands and other surface water, as well as stormwater and surface water management systems in uplands. The program is designed to ensure that activities in uplands, wetlands and other surface waters do not degrade water quality or degrade habitat for aquatic or wetland dependent wildlife. The DEP and SFWMD's have an operating agreement to split up the responsibility for permitting. DEP handles individual single family residents; marinas not associated with other upland development; utilities; governmental dredging and other in water work associated Sovereign Submerged Lands authorization with the above. The SFWMD handles agriculture; residential and commercial developments; roads (FDOT); associated Sovereign Submerged Lands authorization with the above.

DEP, SFWMD and the USACOE have an operating agreement with the purpose of coordinating permitting and compliance/enforcement programs concerning activities in wetlands and surface waters. This covers Water Quality Certification, and the Coastal Zone Consistency Concurrence.

There are 3 types of authorization: regulatory – environmental rules, exemptions, permits, etc.; proprietary – State lands authorization, activities on public property; and federal – state programmatic general permit, USACOE permit issued by the state through a joint application.

	<p>Ms. Smith explained the regulatory rules and statutes as well as the enforcement and enforcement penalties.</p> <p>Task force discussion on the matter.</p> <p>Mr. Sauls asked for clarification on how a property owner is to know which agency or agencies they would need to apply to . Ms. Smith stated that a lot of local governments, ie city building and zoning, advise them that they need to contact the State.</p> <p>Mr. Hefty advised the task force that the average citizen should be aware that some form of permit is required to develop a raw piece of land. It is in that process that we advise the citizen if there is an issue that needs to be addressed with other agencies.</p> <p>Mr. Davis indicated that staff provides the contact information to the other agencies if the citizen may need to contact them .</p> <p>Mr. Gonzalez suggested that the Task force look at pursuing delegation at a local level for the citizens.</p> <p>Task force discussion on this item ensued</p>
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## PRESENTATION: US ARMY CORPS OF ENGINEERS

## MEGAN CLOUSER SR PROJ MG USACOE

DISCUSSION	Megan Clouser, Senior Project Manager, Miami Field Office, US Army Corps of Engineers, Jacksonville District.		
	The Corps Jacksonville District area of responsibility is the State of Florida, Puerto Rico and the Antilles. The Miami Field Office is responsible for Monroe County and Miami Dade County. The mission for the District is navigation, shore protection, interagency and international services, emergency management, flood damage reduction, ecosystem restoration and regulatory.		
	Ms. Clouser spoke about the area of responsibility for the Jacksonville office of the USACOE and their regulatory authority which is equivalent to DERM’s Class I and Class IV programs.		
	The Corps regulatory authority comes from the Section 10 of the Rivers and Harbors Act of 1899, which authorizes all work over or under “navigable waters of the United States.” It includes placement of docks, bulkheads with backfill, marinas, mooring buoys and other similar structures, as well as dredging and filling activities. The Corps operates under Section 404 of the Clean Water Act which authorizes discharges of dredged or fill material in “waters of the United States” including wetlands and other special aquatic sites.		
	The Corps issues a variety of permits.		
	Individual permits:		
	<ul style="list-style-type: none"><li>Standard permits, which are typical to Miami Dade County under 404, has a full review and must be public noticed.</li><li>Letters of Permission, is an abbreviated permit procedure that is defined criteria (ie erosion control activities not to exceed 0.2 acre of fill).</li></ul>		
	Nationwide Permits:		
	There are 50 nationwide permits, not all of which apply to the Jacksonville District, Some expire March 18, 2012. These permits may require water quality certification, coastal zone consistency determination; pre-construction notification and are subject to discretionary authority, which means that the Corps decides if it meets the criteria.		
	For decision making purposes, the Corps uses the 404(b)(1) guidelines, the wetland fill permit, requires that we follow a process which is avoidance, minimization and then compensation. The Corps determines least environmentally damaging practicable alternative.		
The National Environmental Policy Act (NEPA) ensures consideration of environmental impacts and alternatives for federal actions. This documentation must be done for every permit, even the most minor ones.			
Ms. Clouser reviewed the regulatory key points which include protecting important aquatic resources; the majority of permits are issued with a revised footprint; mitigation does not make an unpermittable project permittable; Corps fully mitigates unavoidable impacts; no net loss of aquatic functions and values; large number of projects involve T & E Species, Historic Properties, Tribal Issues, and EFH issues which add to the complexity of project evaluation.			
Task Force held discussion on the matter.			
Members and staff discussed the process of the public process/outreach for obtaining permits from the different agencies.			
ACTION ITEMS			
County Attorney presentation on the appeal’s process		Staff	
Share PERA ideas on how to simplify the permitting process		Staff	

DISCUSSION	<p>The Vice Chair opened the public comment portion of the agenda at this time.</p> <p><b>Ed Swakon, President of EAS Engineering – 55 Almeria Avenue</b></p> <p>"First I want to congratulate the county and whoever put this committee together, it's been a long time coming. We have been hearing in the community and I've been doing environmental work for almost 25 years. We've been hearing for a very long time that chapter 24 is going to be revised, things are going to happen to make it simpler and I think this is the right impetus that we need to make sure that some of those proposed recommendations get brought forward. There are a couple of things that I just wanted to clarify before I get into the substantive things. It was mentioned over here that when an application submitted to the state is then forwarded to the Corps and there was I think an implication or maybe an understanding that it is a joint process after that, it is not. The joint process stops at the time the application is submitted. The state does their review, the Corps does their review and they may talk to one other, but there's no other real correlation (Ms. Smith, unless it meets a programmatic general...), unless you're delegated something right, but in terms of a coordinated review between those two agencies, that's not happening. I don't know if it can happen, but it doesn't. Most of what I have heard today seems to be dealing with fresh water wetlands component of Chapter 24 regulation and I think that's where some of the original suggestions for this committee came forward and I think that those discussions need to continue and there is a lot of clarification that needs to be done, particularly on one of the topics that you were discussing which was the conversion of different agricultural uses. We've seen in South Dade for example, because of the economic situation that exists in the community, where row crops were converted to tree farms which now may be converted back to row crops and I think there's a lot of confusion in the agricultural industry as to exactly what they do or don't need in terms of permits when those types of alterations occur on the property. Because row crops treat the land differently than tree farms do. So I think that needs some real clarification. It needs to get documented how you move through the process when those types of activities are occurring.</p> <p>I'm going to suggest to you that you need to spend a fair amount of time on the coastal side of chapter 24 also. Chapter 24 has evolved over the years, there were criteria that were original drafted and incorporated into chapter 24 years ago when the coastal component of chapter 24 only anticipated with dealing with projects that were in the bay and there were a set of 6 criteria that exists in chapter 24 that if you're getting a Class I permit, you have to meet one of these 6 criteria. But now, a significant portion of the Chapter 24 implementation deals with Class I permits that are essentially the same as Class IV permits except they have a different type of vegetation on them and there's no way that a residential project or even an agricultural project for example that might be situated in an area that has coastal vegetation characteristics, but is not on the bay, its not on the marina, its not a dock, its not a pier can meet one of the 6 criteria that are in the code. I think that whole variance process that people need to go through to demonstrate compliance with those criteria needs to get eliminated or modified when the projects are clearly not in the bay. When you do get a variance or when you do need a variance from the EQCB, you guys need to clarify the path forward. If we're not successful at the EQCB, we need to have the availability to go to the County Commission even if that recommendation is for denial or the EQCB application for a variance was denied. Our due process can't stop at the EQCB.</p> <p>You need to incorporate DERM's ability to issue fee waivers. The Code now allows that municipalities can get fees waived on applications, but there are some instances when the private sector needs to have the fees waived and right now you don't have that capability.</p> <p>You need to revise or simplify the document signing process. It's a nightmare, it's gotten better, but having to go back to an applicant or having me as a professional engineer have to sign and resign certification letters 3, 4 and 5 times on an application is ridiculous. You also need to clarify the exact wording in what's required in the PE certification. Right now I think what you are requiring of the PE to certify is a violation of state law. Those are some of things I think you need to look at. I would encourage you to talk to others who do this in the community to maybe help you generate this list that the committee has asked you of things that could be simplified because I think we might have a lot of good ideas."</p> <p><b>Steve Carney - Carney Environmental</b></p> <p>"I just had a question for the state. You mentioned the A,B,C,D test and the Altered sites test, but you didn't broach the hydrology test. It is possible to have what was historical wetland but the hydrology is such that the water table is lowered to a point where it can no longer function as a wetland and I wonder if you could speak to that briefly."</p> <p>Ron Peekstok, SFWMD and Jennifer Smith, FDEP responded to the inquiry.</p> <p><b>Pamela Evans</b></p> <p>"Hi, I am not a landowner, my name is Pamela Evans. I'm just someone who is concerned for the last, I guess year, this whole 8.5 and all of Miami-Dade County with how DERM has treated a lot of these people. One of the things I've noticed is that this is basically a policy meeting, your trying to recommend changes, which I think is great. But when they are telling you how they do things, I think it would be very beneficial to actually have a couple of landowners and say is this your experience? Because what their saying it varies a little from the people that I've talked to. I don't know your name, but Mr. Sauls, you had a very good point, you asked if it's fair and if it's transparent and from the people I've talked to, its not fair its not transparent. What happens is that some of these people buy the land in 8.5 or wherever, there's nothing on any title. There's nothing on anything that says its wetlands and if you go look at it, it doesn't have the characteristics of a wetlands. So these people get all the proper permits. In one case one of the people that is going through a very traumatic time, got a federal permit, got her water permit, she got her SFWMD permit. She got every possible permit you could think of and then she went on there and started developing her land as a farm. She got her permits from the state, the feds, in fact she got a \$200,000 loan from the feds. It seems to me if the federal government came down and gave her a loan and they looked at the land and didn't tell her you know what this is a wetland, why would they give her a \$200,000 loan? Because otherwise it wouldn't be worth that much money because if your land is wetlands it goes down in value.</p>
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Point being that once she started developing the land, nobody told her you better stop this is a wetlands. Mind you they had pictures the whole time she was doing this. So they could have come to her at anytime and said you better stop now, because if you don't know your wetlands. Nothing and anything told her this. She didn't even know that she had to go get a wetlands permit. She didn't even know she was a wetlands. So now the day she was done, she got a cease and desist order. That's when all the trouble started, she already had bought the property, she gave some other land as collateral, she put all this money into the property. Now they say you know what, you have to put some more money in. She had no more money. So now, she gets a letter saying, why aren't you complying? The Mayor's office says these people they've given extensions. Well if you have no more money, what do you do? Except lose your land and lose everything you've put into that. So when you ask if its clear and transparent? No, because the people I've talked to its definitely not clear and transparent. Another case that I heard of, where DERM was sitting outside in cars watching somebody do this. Watching them do some improvements to the property whether it be mulch, whether it be digging, whatever it was, it was agricultural. They didn't tell them right off the bat and say you better stop, they wait until they finish whatever their doing. I don't know if that's the way you do it or not.

My other question is when you do determinations. When you go to properties, not you specifically, but your department, do they keep it on file? Ok, so if someone came to you and said I wanna see my file, I wanna see how you did this, would you have that information right there? (response from Jennifer Smith...yes) My understanding from talking to many different landowners is that when they have come to DERM, in fact, one of the news stations asked for this information said I would like to see this information. They never get it from the people I've talked to. I don't know if anybody has, they can never show them how they did it. That's really strange to me. So maybe they have their own method of doing it, but why can't they produce it when asked? So the thing is, I think at these hearings, you should have a couple of landowners that are going through these horrible times, who are about to lose their homes, lose everything they've worked for. They have children. What we are doing we are breeding more homelessness, we are breeding more people without business, and this is not just 8.5. There are cases out there right now and the other thing we thought is that, in view of the fact that you don't know what's right and wrong, and the cases are still going on, why don't you have a moratorium. Why don't you call and say to the commissioners we want a moratorium until we know what's right and wrong. Because meanwhile by the time you finish this, in 2012, January there will probably be a lot more people who have lost everything they've worked for and their homes and their businesses and then they go on state and get food stamps. So this is not helping the issue. It does worry me that you are telling me that there is a lot less agriculture. Why do you think? It's so complicated who's gonna buy a piece of land and not know what's there and go I'll take that gamble? Thank you."

#### **Alina Ramirez**

"My name is Alina Ramirez, like Pam, I have been able to meet a lot people in 8.5 or some of the people. I am piggy backing on what Alice Pena was trying to say all along. Basically, this task force is nothing like what I thought the task force would be. Because in the town meetings, basically we expressed there were a lot of what seemed to be egregious issues and that the only way that we could decide whether DERM was handling their cases accordingly. In order for them to prove their case, the only way would be to do a meticulous investigation on the cases that they are holding and see what the determination was and how much it cost these people to get either a Class IV, to mitigate, where the mitigation funds went, how much they were put in a situation where they really had no choice but to do this, they felt coerced. So basically I went a long and did a tabulation, I thought this would handle and actually Mr. Duvall said what a great idea. This is probably the best way or the only way that we might be able to see the truth and maybe both sides could be convinced either that DERM is doing a wonderful job or maybe there's something going on wrong, because obviously you don't get that many people so angry unless there's a reason. Again, if this land, in this case, let's say 8.5 is so absolutely necessary, so absolutely needed as pristine as God gave it to us. Then let's buy it from these people. Lets not put these people through this rigmarole where they need consultants, they need attorneys, they need every penny that they need. I'm sure that Ms. Baloyra knows about some cases, by the time they're done, they have no land, nothing, no savings. Yeah, I love little birds, I love the everglades, I love all that too, but I love human beings too, especially people who are being put through a process that seems it never ends until they lose it all. Again, if it's a problem of pristine then lets just buy it from them. If you are going to solve the problem in the donut place right, you're not making this land more pristine basically, if we're saying that we are taking care of the aquifer, then why do we put a mining enterprise there? So the stuff that is being done in lieu of trying to make this land ok to be used, is not quite right. It will not make it more pristine. When I envisioned the task force, I kind of envisioned a lot of people from that area sitting right there saying hey, this is what happened, why it happened and maybe some experts out here. But the damaged parties, the people who have been harmed, I thought they would be sitting in your chairs."

#### **Ed Chapman**

"My name is Ed Chapman and I do live in the area, I've lived there for over 30 years now. The property was developed in 1975, built and bought in 1970. The biggest problem I have with the whole process is, even though they say you have all these remedies, you can't seem to get yourself through them. I had inquired in the very beginning about remedies and I was given nothing but a blank check to nowhere. You try to bring up a particular situation and you get one of the DERM people telling you can't do that. Well why can't I do that? Well you just can't or they tell you can't cut your grass in front of your house, why can't I? You just can't and I'm gonna fine you if you do. These are the things we've had to put up with for all these years. I guess the long running problem is there may be remedies, but they all cost money. When the government says to you prepare for your old age and make sure we don't have to take care of you, and I'm one of those that said yeah, I need to do that. So we started making plans to do that and now we don't have any money left, absolutely none. For the first time in 29 years I've had to pay my taxes and my house payment on a credit card and that's criminal. My land is my land, its 5 acres, it was not noted on anywhere that it was wetlands. I've been to court, the judge says no you haven't convinced me that its wetlands and they found on my behalf. There's another problem on there that we're dealing with now, but if I have to go through all these remedies, I'm gonna need backup, I'm gonna need a hydrologist, a botanist, a biologist, a lawyer, I can't do that. Now I'm at a standstill, you can't do it by yourself, believe me I've tried."

Task force discussion on public comments

<p><b>Rainer Schael – President of RS Environmental Consulting - PO Box 161158 Miami FL 33116</b></p> <p>"Steve and I were sitting in the back talking. You guys were mentioning site visit, Manny, Jose squared, I've worked with you guys for 10 years. Steve and I would be willing to, unless there's any prohibition against it, volunteer an afternoon or morning to do a site visit with you guys and give you our professional opinion of whether not a site is or not a wetlands. I volunteer myself, my staff, Kent Huntington who has 30 years of regulatory experience running DEP. If you guys have any questions, please reach out to me, as much as I hate to give away billable time in this economy, I can spare an afternoon for you guys."</p> <p>Vice Chair closed discussion.</p>		
ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Forward to Task force members 62-340.550 FAC once provided by Steve Carney	Staff	

#### SET AGENDA/POLL MEMBERS FOR NEXT MEETING

#### TASK FORCE MEMBERS

DISCUSSION	<p>Vice Chair set, after unanimous vote from members present, the next meeting for November 8 @ 1pm at the present location.</p> <p>Vice Chair opened discussion for the next agenda.</p> <p>Ms. Baylora requested that DERM/PERA present their ideas/current efforts for streamlining.</p> <p>Mr. Hefty advised the members that staff is working on modifying the permit process that is still in the draft stages. However, staff will share ideas for discussion at the next meeting.</p> <p>Mr. Scott wanted to address the conversion types of agriculture and what is and what isn't regulated</p> <p>Mr. Sauls stated that he believes that there were good ideas shared in terms enforcement strategy, identify violations and progressive enforcement. He stated that the department should be bold from the public perspective in terms of enforcement strategy and progressive enforcement. What is the authority for exceptions, exception that doesn't do violence to the core value of preserving the water for the county. Do we need to change the law, where? We shouldn't be limited to the county. I don't think we should hide behind statutes, but try to figure out what's reasonable and fair. Do we have plans in place to address the hurricane issue, are the current codes sufficient to address that.</p> <p>Members requested that staff prepare an outline/bullet points with recommendations for code changes.</p> <p>M. Davis – Order of topics for next meeting</p> <ul style="list-style-type: none"> <li>• Presentation outline on ideas to simplify process, enforcement process and strategy, the appeals process to touch on a couple of points only.</li> <li>• Some language on the permitting process as it relates to agriculture language, explaining how it is presently done and suggestions for how it could be done.</li> <li>• Give a presentation on how the department is using time clocks now and then hear from the District on how they implement their time clocks.</li> <li>• Presentation coastal wetlands permitting aspect of the county code and how it is different</li> </ul>

MEETING ADJOURNED	4:33pm
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